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REPORT OF THE SEVENTH MEETING OF STATES PARTIES

Prepared by the Secretariat

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I. INTRODUCTION

1. The seventh Meeting[1] of States Parties to the United Nations Convention on the Law of the Sea was convened from 19 to 23 May 1997 in accordance with article 319, paragraph 2 (e), of the Convention and the decision taken at the sixth Meeting.[2] Pursuant to that decision, and in accordance with rule 5 of the rules of procedure adopted by the Meeting of States Parties,[3] invitations to participate in the Meeting were addressed by the Secretary-General of the United Nations to all States Parties to the Convention, and to the observers referred to in rule 18 of the rules of procedure, as well as to the President and the Registrar of the International Tribunal for the Law of the Sea in accordance with rule 37 of the rules of procedure.

2. The Meeting had before it the following documents:

- Rules of procedure for Meetings of States Parties (SPLOS/2/Rev.3);
- Suggested amendment of rule 18 of the rules of procedure for Meetings of States Parties (SPLOS/CRP.12);
- Report of the sixth Meeting of States Parties, 10-14 March 1997 (SPLOS/20);
- Interim report (prepared by the Tribunal) (SPLOS/21);
- Provisional agenda (SPLOS/L.5);
- Revised Budget Estimates for the International Tribunal for the Law of the Sea covering the period 1996-1997 (SPLOS/WP.3/Rev.1);
- Draft budget proposals of the International Tribunal for the Law of the Sea for 1998 (SPLOS/WP.4);
- Draft Agreement on Privileges and Immunities of the International Tribunal for the Law of the Sea (SPLOS/WP.2 and Rev.1);
- Germany: Proposals relating to the draft Agreement on Privileges and Immunities of the International Tribunal for the Law of the Sea (SPLOS/CRP.10);
- Recommendations and conclusions of the International Tribunal for the Law of the Sea on the draft Agreement on Privileges and Immunities of the International Tribunal for the Law of the Sea (SPLOS/CRP.11);
- Draft rules of procedure of the Commission on the Limits of the Continental Shelf (SPLOS/CLCS/WP.1);
- Commission on the Limits of the Continental Shelf: its functions and scientific and technical needs in assessing the submission of a Coastal State - Study prepared by the Secretariat (SPLOS/CLCS/INF/1).

II. ORGANIZATION OF WORK

A. Opening of the seventh Meeting by the Representative of the Secretary-General

3. In the absence of the President of the sixth Meeting, the seventh Meeting was opened by the Representative of the Secretary-General, Mr. Hans Corell, the Under-Secretary-General for Legal Affairs, the Legal Counsel of the United Nations.

B. Election of the President

4. In accordance with the understanding reached at the sixth Meeting (SPLOS/20, para. 5), the Meeting elected H.E. Ambassador Helmut Tuerk (Austria) as President of the seventh Meeting of States Parties by acclamation.

C. Statement of the President

5. In his opening statement, the President outlined the programme of work of the Meeting. He said the priority item before the States Parties was the consideration and adoption of the 1998 budget for the International Tribunal for the Law of the Sea. In a related matter, the working group on the draft Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea would be reconvened, with a view to finalizing the text. The other items, such as the amendments to the rules of procedure of the Meeting of States Parties, the draft rules of procedure of the Commission on the Limits of the Continental Shelf and the role of the Meeting of States Parties in reviewing oceans and the law of the sea issues, would be considered if time permitted.

D. Adoption of the agenda for the seventh Meeting

6. The Meeting adopted the provisional agenda for the seventh Meeting (SPLOS/L.5).

E. Election of the Vice-Presidents

7. The Meeting elected the representatives of the Czech Republic, Indonesia, Togo and Uruguay as the Vice-Presidents of the seventh Meeting of States Parties.

F. Appointment of the Credentials Committee

8. The Meeting of States Parties appointed a Credentials Committee consisting of the following members: Cameroon, Croatia, Germany, Malta, Micronesia (Federated States of), Philippines, Senegal, Trinidad and Tobago and Uruguay.

III. DRAFT BUDGET OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

9. The President of the International Tribunal for the Law of the Sea introduced the draft budget (SPLOS/4) and pointed out that it was the first budget to be prepared by the Tribunal. He also said that an interim report (SPLOS/21) had been prepared to inform States Parties of the work that had been undertaken thus far and that a full report would be prepared later.

10. The first budget of the Tribunal covered the initial period from 1 August 1996 to 31 December 1997, characterized as the organizational phase. The budget proposals for 1998 were predicated on the premise that 1998 would be the first year of the functional phase of the Tribunal. The requirements under various items ("objects of expenditure"), especially staffing requirements of the Registry of the Tribunal, were estimated based on this premise. The budget proposals amounted to a total of $7,779,061 composed of: (a) a recurrent expenditure of $6,929,232 including $2,639,261 for the remuneration of the judges and $2,865,871 for salaries and related costs of staff (14 posts at the professional level and above and 22 posts at the General Service level); (b) a non-recurrent expenditure of $150,000, essentially for the requisition of furniture, equipment and special equipment for the library; and (c) a contingency provision of $699,829 to cover expenditures for dealing with cases that may be brought before the Tribunal in 1998.

11. After the introduction of the budget proposals in the plenary, an open-ended Working Group, with the President of the Meeting as Chairperson, was formed to consider the proposals. The Working Group held six meetings. A preliminary discussion was followed by a paragraph-by-paragraph and by an item-by-item consideration by the Working Group. Informal consultations were also held between the President, a number of delegations and the President and the Registrar of the Tribunal.

12. On the basis of the agreement reached in the Working Group (SPLOS/CRP.13), the Meeting of States Parties approved the revised budget of the Tribunal for 1998 (SPLOS/L.7). The approved budget amounted to a total of $5,767,169 composed of: (a) a recurrent expenditure of $5,627,169 including $1,971,330 for the remuneration of the judges and $2,419,239 for salaries and related costs of staff (11 posts at the Professional level and above and 16 posts at the General Service level); and (b) a non-recurrent expenditure of $140,000. The provision for contingency costs, in the event a case was submitted to the Tribunal in 1998, was not included. It was also decided to transfer the funds remaining at the end of the current budget year to the budget for 1998 under the item "Temporary assistance for meetings". It was further decided that any costs for hearing a case in 1998 will have to be defrayed from within existing resources, in particular from the budget items "Temporary assistance for meetings" and "Travel of judges to sessions". However, the amount of $150,800, added to the "Travel of judges to sessions", would only be available if a case was actually submitted to the Tribunal in 1998. A view was expressed that these decisions should not prejudge the establishment of contingency funds in the future.

13. It should be noted that a considerable reduction had been achieved in the approved budget, when compared to the draft budget for 1998 as proposed by the

Tribunal (a reduction of $2,011,892) and also when compared to the approved budget for the period August 1996-December 1997 (a reduction of $403,731).

14. As regards the meetings of the Tribunal in 1997, an amount of $290,000 was approved for a fourth meeting of four weeks' duration in October. However, it was pointed out that this had to be viewed as an exception and did not constitute a precedent. It was also decided to approve expenditures for eight weeks of meetings of the Tribunal in 1998 to enable it to consider and adopt the Internal Judicial Practice of the Tribunal, the rules and practice of its chambers and the guidelines for potential parties before the Tribunal. As regards the number of meetings, it was left to the Tribunal to decide how many it would hold.

15. With respect to the remuneration of the judges, their annual allowance and special allowance remain unchanged since in accordance with the provisions of article 18, paragraph 5, of the Statute of the Tribunal (annex VI of the Convention), the emoluments and allowances of the judges cannot be altered during their tenure. Subsistence allowance of the judges was reduced to 8 weeks from the proposed 12 weeks, and was limited to 10 judges to be authorized by the President. The class of travel of the judges was also lowered to business class from the proposed first class and the provision for the travel of family members (included in the budget proposals) was deleted. The President's remuneration, which includes special allowance and common costs, in the amount of $208,430, was retained because the President resides at the seat of the Tribunal. However, the common costs of the other 20 judges were eliminated since the matter relating to the payment of common costs to judges within the United Nations system would first have to be decided by the General Assembly. This situation also pertained to the pension of the President of the Tribunal.

16. Regarding the staff of the Registry, compared to the proposal of the Tribunal, a reduction was achieved from 14 to 11 posts for the Professional staff and from 22 to 16 posts for the General Service staff. It was the understanding of the Meeting of States Parties that, in the recruitment of staff for the Tribunal, the principles of equitable geographical distribution, gender balance and the selection of the most qualified candidates would be respected.

17. As regards other budgetary items, lower amounts were approved by the Meeting of States Parties in comparison to the proposal of the Tribunal. These items include: general temporary assistance ($87,000 reduced from $107,000); official travel ($82,000, reduced from $100,000); communications ($137,000, reduced from $152,000); supplies and materials ($50,600, reduced from $59,600); and maintenance of premises ($140,000, reduced from $152,000).

18. The Meeting of States Parties noted with appreciation the statement of the President of the Tribunal that the next draft budget to be submitted by the Tribunal would contain all the necessary information and clarifications including details of estimates. The Meeting also supported the suggestions made by several delegations that for the consideration of the next draft budget of the Tribunal, financial experts from States Parties should be present and that the text of the draft budget should be circulated well in advance of the next Meeting of States Parties.

IV. DRAFT AGREEMENT ON PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

19. It was decided to continue the consideration of the draft Agreement on Privileges and Immunities of the International Tribunal for the Law of the Sea in the open-ended Working Group set up during the sixth Meeting, under the chairmanship of Mr. Martin Šmejkal (Czech Republic).

20. In introducing the report of the Working Group, the Chairman of the Group said that it had held three meetings to consider the draft Agreement (SPLOS/WP.2/Rev.1) and had also held informal consultations. In addition to the main document, it had also taken into consideration written and oral suggestions and proposals made by delegations.

21. The Working Group considered the following provisions dealing with the question of insurance coverage for vehicles owned and operated by the Tribunal, its members and officials: article 5, paragraph 4; article 13, paragraph 6; and article 14, paragraph 3. The Working Group adopted these provisions, with the proviso that the Meeting of States Parties would include in its report a statement specifying that States Parties would not normally expect reliance to be placed on immunity in respect of claims for damages arising from accidents involving such vehicles.

22. The Working Group also considered article 18, regarding persons enjoying privileges and immunities under the Agreement who are nationals or residents of a State Party, and article 20 on the question of waiver. These articles were adopted, with suggested amendments, and are reflected in document SPLOS/22.

23. On the question of laissez-passer and visas, a new formulation was adopted. In this regard, one delegation wished to place on record that the issuance of laissez-passer by the United Nations to the members and officials of the Tribunal, pursuant to the Relationship Agreement to be concluded between the United Nations and the Tribunal, would facilitate the development of the Tribunal and would promote cost-effectiveness. That delegation, however, was of the opinion that pursuant to the Convention and the provisions of the Agreement itself, the Tribunal retained its status as a subject of international law with such personality and capacities as contained in those instruments. It also maintained the view that the provisions of the article would not preclude the Tribunal from issuing its own laissez-passer in the future, to be recognized by the States Parties to the Agreement.

24. The Working Group also decided that the article on reservations and exceptions should be deleted from the Agreement.

25. The draft Agreement (SPLOS/22), with the proviso contained in paragraph 21 above, was then adopted informally by consensus by the Working Group.

26. With respect to the future course of action regarding the formal adoption of the draft Agreement, various views were expressed in particular on whether the Agreement should be adopted by the Meeting of States Parties or by the General Assembly and on the date and the period during which the Agreement would be open for signature.

27. At its 25th plenary meeting, the States Parties adopted the draft Agreement, taking into account reservations expressed by two delegations (Brazil and Russian Federation), which stated that they did not have the mandate to adopt it. However they also stated that they would not object to its adoption by the Meeting. It was also decided that the President of the Meeting of States Parties should address a letter to the Secretary-General, requesting him to act as depositary of the Agreement, which would remain open for signature for 24 months at United Nations Headquarters as from 1 July 1997.

V. RULES OF PROCEDURE OF THE MEETING OF STATES PARTIES

28. Following a discussion of the rules of procedure of the Meeting of States Parties, particularly with a view to allowing new members of the United Nations to participate as observers, it was decided to amend rule 18, paragraphs 1 and 2, by inserting the following new text, which would become paragraph 1 of rule 18:

> "1. At Meetings of States Parties, the following may participate as observers if they are not Parties to the Convention:
>
> (a) States that have signed the Convention;
>
> (b) States Members of the United Nations or members of specialized agencies of the United Nations system or the International Atomic Energy Agency;
>
> (c) International organizations referred to in Annex IX of the Convention;
>
> (d) Entities referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e), of the Convention;
>
> (e) Observers at the Third United Nations Conference on the Law of the Sea who have signed the Final Act and who are not referred to in article 305, paragraph 1 (c), (d), (e) or (f), of the Convention."

VI. DRAFT RULES OF PROCEDURE OF THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

29. At the 25th plenary meeting, the President of the Meeting of States Parties reported on informal consultations on the draft rules of procedure of the Commission on the Limits of the Continental Shelf.

30. He pointed out that the following views had been expressed in the course of the consultations: that the rules should be adopted by the Commission itself; that they were rather elaborate and might be revised with a view to their simplification; that they should address the protection of proprietary and other confidential information; and that the declaration to be made by members of the Commission upon taking office should contain provisions for protecting and prohibiting the unauthorized disclosure of such information.

31. Other views expressed were that the draft rules provided no guidance regarding the Commission's dealing with areas which were the subject of disputes or with undefined boundaries between opposite or adjacent States; that the Commission's recommendations as well as the outer limits based upon such recommendations were without prejudice to such delimitation questions; and that since the objective of the Convention on the Law of the Sea was to promote stability in the oceans, it was important to embody in the rules guidance of a procedural nature in order to avoid exacerbating existing disputes or creating disputes where none existed.

32. Additional views expressed were that the rules should address the issue of whether a member of the Commission who was a national of a coastal State making a submission could not serve in the subcommission considering that State's submission while another member of the Commission who was a national of an adjacent or opposite State served in the subcommission; that the Commission, being an independent body, might wish to consider the potential usefulness of drawing upon outside expertise; however, the latter view was not shared by others.

33. It was also suggested that the members of the Commission might wish to regard the International Seabed Authority as a competent international organization in accordance with the provisions of draft rule 54; and that the Commission might wish to adopt the draft rules only on a provisional basis and thus allow itself more time to develop the rules further before final adoption. In that case the solemn declaration made by the members of the Commission might also be modified.

34. The President of the Meeting then pointed out that the first meeting of the Commission would be held in New York at United Nations Headquarters from 16 to 20 June 1997 and that the invitations to all members of the Commission had been issued by the Secretariat on 4 April 1997. However, since the Secretariat did not at that time have the individual addresses of all the members of the Commission, the letters of invitation had been sent through the Permanent Missions to the United Nations in New York of those States whose nationals were members of the Commission. The draft provisional agenda of the meeting and some other documents were attached to the invitations.

VII. ROLE OF THE MEETING OF STATES PARTIES IN REVIEWING OCEAN AND LAW OF THE SEA ISSUES

35. At the sixth Meeting of States Parties (10-14 March 1997), it was decided to include in the agenda of the seventh Meeting an item entitled "Role of the Meeting of States Parties in reviewing ocean and law of the sea issues".

36. A preliminary discussion on the agenda item was held at the 25th plenary meeting and a number of delegations underscored the need to enhance the role played by the Meeting of States Parties when dealing with issues related to oceans and the law of the sea. It was also stressed that the coordination among different Secretariat units involved in marine issues should be improved. It was stated that it was necessary to strengthen the overall coordination in

relation to institutional responsibilities in marine affairs within the United Nations system.

37. A view was expressed that there was a lack of cohesion in the treatment of matters attributed by the Convention to the specialized agencies of the United Nations. It was suggested that the Meeting of States Parties should request the Division for Ocean Affairs and the Law of the Sea to keep the Meeting informed of the scope of the responsibilities of the specialized agencies assigned to them under the Convention and how they were being discharged.

38. Strong support was expressed for the suggestion that the review of ocean and law of the sea issues should be a regular item on the agenda of the Meeting of States Parties. In this context the importance of the topic of ocean management was stressed and it was recalled that the General Assembly item on "Law of the sea" had recently been expanded to include fisheries issues and then further broadened to become the item "Oceans and the law of the sea". Another suggestion was that, in view of the forthcoming special session of the General Assembly on sustainable development, which would be dealing with the marine environment in relation to the implementation of chapter 17 of Agenda 21, the Division for Ocean Affairs and the Law of the Sea and the secretariat of the Commission on Sustainable Development should coordinate their activities in order to avoid duplication.

39. Several delegations emphasized the high quality and the importance of the annual report of the Secretary-General on the "Law of the sea" item to the General Assembly. Because of the consolidated nature of the report and the very comprehensive information it contained, many delegations requested that it not be subject to restrictions in regard to its length and that it should be made available to Governments at least one month before the General Assembly's consideration of the item.

40. Another suggestion was that Governments should consider sending their experts in ocean and law of the sea matters to participate in drafting of the annual resolution and in the debate in the General Assembly related to those matters. A further suggestion was that Governments should ensure that their institutions involved in ocean and law of the sea issues worked in coordination to ensure that there was a consistent national policy and approach to those issues.

41. Following the discussion, the President of the Meeting of States Parties observed that it appeared that there was an obvious desire on the part of delegations for the agenda item to be retained since it would provide an opportunity for the Meeting to undertake a regular review of matters relating to oceans and the law of the sea. However, he felt that it was premature to take such a decision and he suggested instead that in order to facilitate the establishment of such a process of review, the President of the Meeting of States Parties should attend the General Assembly debate on the item "Oceans and the law of the sea" to report on the work carried out by the Meeting of States Parties during that year. The suggestion was accepted by the Meeting.

VIII. OTHER MATTERS

A. Report of the Credentials Committee

42. The Credentials Committee held one meeting on 22 May 1997 and elected Ms. Joanna Darmanin (Malta) as its Chairperson. At that meeting, it examined the credentials of representatives to the seventh Meeting of States Parties. The Committee accepted the credentials submitted by the representatives of 88 States Parties to the Convention and, on 23 May 1997, the Meeting of States Parties approved the report of the Committee (SPLOS/23).

B. Dates and programme of work of the eighth Meeting of States Parties

43. The eighth Meeting of States Parties will be held in New York from 18 to 22 May 1998. Based on the proposals of the President of the seventh Meeting of States Parties, the eighth Meeting will have on its agenda, inter alia, the following items:

(a) Draft budget of the International Tribunal for the Law of the Sea for 1999;

(b) Rules of procedure of the Meeting of States Parties;

(c) Role of the Meeting of States Parties in reviewing ocean and law of the sea issues.

Notes

[1] The previous six Meetings of States Parties were held on 21 and 22 November 1994, from 15 to 19 May 1995, from 27 November to 1 December 1995, from 4 to 8 March 1996, from 24 July to 2 August 1996 and from 10 to 14 March 1997.

[2] SPLOS/20, para. 35.

[3] SPLOS/2/Rev.3.